

EXHIBIT “24”

Dec. 22 OMNIBUS BUDGET RECONCILIATION

P.L. 100-203
Sec. 9303

"(ii) alternative methods based on factors other than current liability for the determination of the amount taken into account under subparagraph (A)(i), and

"(iii) for the treatment under this section of contributions which would be required to be made under the plan but for the provisions of subparagraph (A)(i)(I)."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1987.

(2) REGULATIONS.—The Secretary of the Treasury or his delegate shall prescribe such regulations as are necessary to carry out the amendments made by this section no later than August 15, 1988.

(3) STUDY.—The Secretary of the Treasury or his delegate shall study the effect of the amendments made by this section on benefit security under defined benefit pension plans and shall report the results of such study to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate no later than August 15, 1988.

26 USC 412 note.

PART II—PENSION FUNDING AND TERMINATION REQUIREMENTS

Pension Protection Act.

SEC. 9302. SHORT TITLE; DEFINITIONS.

(a) SHORT TITLE.—This part may be cited as the "Pension Protection Act". 26 USC 1 note.

(b) DEFINITIONS.—For purposes of this part—

(1) 1986 CODE.—The term "1986 Code" means the Internal Revenue Code of 1986.

(2) ERISA.—The term "ERISA" means the Employee Retirement Income Security Act of 1974.

Subpart A—Modifications of Minimum Funding Standard**SEC. 9303. ADDITIONAL FUNDING REQUIREMENTS.**

(a) AMENDMENTS TO 1986 CODE.—

(1) IN GENERAL.—Section 412 of the 1986 Code (relating to minimum funding standard) is amended by adding at the end thereof the following new subsection:

"(l) ADDITIONAL FUNDING REQUIREMENTS FOR PLANS WHICH ARE NOT MULTIEmployer PLANS.—

"(1) IN GENERAL.—In the case of a defined benefit plan (other than a multiemployer plan) which has an unfunded current liability for any plan year, the amount charged to the funding standard account for such plan year shall be increased by the sum of—

"(A) the excess (if any) of—

"(i) the deficit reduction contribution determined under paragraph (2) for such plan year, over

"(ii) the sum of the charges for such plan year under subparagraphs (B) (other than clauses (iv) and (v) thereof), (C), and (D) of subsection (b)(2), reduced by the sum of the credits for such plan year under subparagraph (B)(i) of subsection (b)(3), plus

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"(3) AMOUNT OF LIEN.—For purposes of paragraph (1), the amount of the lien shall be equal to the lesser of—

“(A) the amount by which the unpaid balances described in paragraph (1)(B) (including interest) exceed \$1,000,000, or
“(B) the aggregate unpaid balance of required installments and other payments required under this section (including interest)—

“(i) for plan years beginning after 1987, and

“(ii) for which payment has not been made before the due date.

"(4) NOTICE OF FAILURE; LIEN.—

“(A) **NOTICE OF FAILURE.**—A person committing a failure described in paragraph (1) shall notify the Pension Benefit Guaranty Corporation of such failure within 10 days of the due date for the required installment or other payment.

“(B) **PERIOD OF LIEN.**—The lien imposed by paragraph (1) shall arise on the 60th day following the due date for the required installment or other payment and shall continue until the last day of the first plan year in which the plan ceases to be described in paragraph (1)(B). Such lien shall continue to run without regard to whether such plan continues to be described in paragraph (2) during the period referred to in the preceding sentence.

“(C) **CERTAIN RULES TO APPLY.**—Any amount with respect to which a lien is imposed under paragraph (1) shall be treated as taxes due and owing the United States and rules similar to the rules of subsections (c), (d), and (e) of section 4068 of the Employee Retirement Income Security Act of 1974 shall apply with respect to a lien imposed by subsection (a) and the amount with respect to such lien.

“(5) **ENFORCEMENT.**—Any lien created under paragraph (1) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Pension Benefit Guaranty Corporation, by the contributing sponsor (or any member of the controlled group of the contributing sponsor).

"(6) DEFINITIONS.—For purposes of this subsection—

“(A) **DUCE DATE; REQUIRED INSTALLMENT.**—The terms ‘due date’ and ‘required installment’ have the meanings given such terms by subsection (m), except that in the case of a payment other than a required installment, the due date shall be the date such payment is required to be made under this section.⁹⁷

“(B) **CONTROLLED GROUP.**—The term ‘controlled group’ means any group treated as a single employer under subsections (b), (c), (m), and (o) of section 414.”

(2) AMENDMENT TO ERISA.—Section 302 of ERISA (as amended by this subtitle) (29 U.S.C. 1082) is amended by redesignating subsection (f) as subsection (g) and by adding after subsection (e) the following new subsection:

"(f) IMPOSITION OF LIEN WHERE FAILURE TO MAKE REQUIRED CONTRIBUTIONS.—

“(1) **IN GENERAL.**—In the case of a plan to which this section applies, if—

⁹⁷ Copy read “section.”.

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“(A) any person fails to make a required installment under subsection (e) or any other payment required under this section before the due date for such installment or other payment, and

“(B) the unpaid balance of such installment or other payment (including interest), when added to the aggregate unpaid balance of all preceding such installments or other payments for which payment was not made before the due date (including interest), exceeds \$1,000,000,

then there shall be a lien in favor of the plan in the amount determined under paragraph (3) upon all property and rights to property, whether real or personal, belonging to such person and any other person who is a member of the same controlled group of which such person is a member.

“(2) PLANS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to a defined benefit plan (other than a multiemployer plan) for any plan year for which the funded current liability percentage (within the meaning of subsection (d)(8)(B)) of such plan is less than 100 percent.

“(3) AMOUNT OF LIEN.—For purposes of paragraph (1), the amount of the lien shall be equal to the lesser of—

“(A) the amount by which the unpaid balances described in paragraph (1)(B) (including interest) exceed \$1,000,000, or
“(B) the aggregate unpaid balance of required installments and other payments required under this section (including interest)—

“(i) for plan years beginning after 1987, and
“(ii) for which payment has not been made before the due date.

“(4) NOTICE OF FAILURE; LIEN.—

“(A) NOTICE OF FAILURE.—A person committing a failure described in paragraph (1) shall notify the Pension Benefit Guaranty Corporation of such failure within 10 days of the due date for the required installment or other payment.

“(B) PERIOD OF LIEN.—The lien imposed by paragraph (1) shall arise on the 60th day following the due date for the required installment or other payment and shall continue until the last day of the first plan year in which the plan ceases to be described in paragraph (1)(B). Such lien shall continue to run without regard to whether such plan continues to be described in paragraph (2) during the period referred to in the preceding sentence.

“(C) CERTAIN RULES TO APPLY.—Any amount with respect to which a lien is imposed under paragraph (1) shall be treated as taxes due and owing the United States and rules similar to the rules of subsections (c), (d), and (e) of section 4068 shall apply with respect to a lien imposed by subsection (a) and the amount with respect to such lien.

“(5) ENFORCEMENT.—Any lien created under paragraph (1) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Pension Benefit Guaranty Corporation, by the contributing sponsor (or any member of the controlled group of the contributing sponsor).

“(6) DEFINITIONS.—For purposes of this subsection—

“(A) DUE DATE; REQUIRED INSTALLMENT.—The terms ‘due date’ and ‘required installment’ have the meanings given such terms by subsection (e), except that in the case of a